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OFFICE OF PETITIONS

ON PETITION

In re Application of
Chang-Seog Ko
Application No. 10/633,706
Filed: August 5, 2003
Attorney Docket No: Q75837

This is a decision on the petition to withdraw the holding of abandonment, filed September 26, 2008, which is being treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on March 13, 2008, for failure to file a timely response to the non-Final Office Action mailed December 12, 2007, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed August 14, 2008. Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket to show that the Office Action mailed December 12, 2007 was not received. Petitioner also explains that after searching the file and docket records, where receipt of the office action would have been indicated if it had been received, it was concluded that no correspondence was received for this matter from the USPTO.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed December 12, 2007, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2623 for a re-mailing of the Final Office Action and for a restarting of the period for response.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

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